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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/024,118

12/19/2001

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DE920000083US1

3223

7590 11/12/2008
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ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

11/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/024,118
Filing Date: December 19, 2001
Appellant(s): BOEHME ET AL.

Anne Vachon Dougherty (Reg. No. 30,374)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 30 April 2008 appealing from the
Office action mailed 06 November 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Khan et al. 6,460,038 B1 10-2002

Black et al. 6,754,833 B1 06-2004

Dumbill, Edd, "XML at Jetspeed," XML.com Copyright © 1998-2003

O'Reilly & Associate, Inc. <http://www.xml.com/lpt/a/2005/05/15/jetspeed/index>

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-6, 9-10, 13-14, and 17-18 rejected under 35 U.S.C. 102(e) as being anticipated by Khan et al. (U.S. 6,460,038 B1) hereinafter referred to as Khan.

a. As per claims 1 and 17, Khan teaches: receiving, at a portal node, user-requested content information from more than one content provider nodes, (lines 41-49 of column 8, lines 36-49 of column 11, and line 63 of column 14 through line 16 of column 15); wherein the user-requested content information

has been generated in a markup language using multiple different portlets comprising a specific portlet at each of the more than one content provider nodes (line 64 of column 7 through line 6 of column 8); combining, at the portal node, the received user-requested content information using a generic portlet to produce combined user-request content information (line 63 of column 14 through line 16 of column 15); and sending, from the portal node, the combined user-requested content information to a user node (lines 34-37 of column 1 and line 66 of column 12 through line 22 of column 13).

b. As per claim 2, Khan teaches: the content information comprises fragments of information generated in the markup language at the more than one content provider nodes, and wherein the combining step comprises combining the fragments of information into the combined user-requested content information (lines 3-5 of column 13 and line 63 of column 14 through line 16 of column 15).

c. As per claim 5, Khan teaches: the combined user-requested content information is configured for displaying on a browser at the user node (lines 3-8 of column 13, line 56 of column 14 through line 16 of column 15, and Fig. 10).

d. As per claim 6, Khan teaches: the markup language is the Hypertext Markup Language (HTML) (line 64 of column 7 through line 6 of column 8).

e. As per claims 9 and 18, Khan teaches: generating, within at least one content provider node, user-requested content information in a markup

language using a specific portlet (line 64 of column 7 through line 6 of column 8); and sending, from the at least one content provider node, the generated user-requested content information to a portal node for combining with information in the markup language received from other content provider nodes using different specific portlets to produce combined user-requested content information and sending the combined user-requested content information to a user node using a generic portlet (lines 34-52 of column 1 and line 66 of column 12 through line 8 of column 13).

f. As per claim 10, Khan teaches: the generating step comprises generating fragments of information in the markup language, and the sending step comprises sending the fragments of information to a portal node for combining and sending to a user node (lines 34-52 of column 1 and line 66 of column 12 through line 5 of column 13).

g. As per claim 13, Khan teaches: the user-requested content information sent to the user node is configured for displaying on a browser at the user node (lines 3-8 of column 13, line 56 of column 14 through line 16 of column 15, and Fig. 10).

h. As per claim 14, Khan teaches: the markup language is the Hypertext Markup Language (HTML) (line 64 of column 7 through line 6 of column 8).

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the appellant for a patent.

4. Claims 1-2, 5, 9-10, 13, and 17-18 rejected under 35 U.S.C. 102(a) as being anticipated by Dumbill (XML at Jetspeed) hereinafter referred to as Jetspeed.

a. As per claims 1 and 17, Jetspeed teaches: receiving, at a portal node, user-requested content information from more than one content provider nodes, (paragraph 1 on page 2); wherein the user-requested content information has been generated in a markup language using multiple different portlets comprising a specific portlet at each of the more than one content provider nodes (paragraph 4 on page 1); combining, at the portal node, the received user-requested content information using a generic portlet to produce combined user-request content information (paragraph 1 on page 2 and paragraphs 2-3 on page 4); and sending, from the portal node, the combined user-requested content information to a user node (paragraphs 2-3 on page 4).

b. As per claim 2, Jetspeed teaches: the content information comprises fragments of information generated in the markup language at the more than one content provider nodes, and wherein the combining step comprises combining the fragments of information into the combined user-

requested content information (paragraph 1 on page 2 and paragraphs 2-3 on page 4).

c. As per claim 5, Jetspeed teaches: the combined user-requested content information is configured for displaying on a browser at the user node (Fig. 1 on pages 1-2 and paragraph 1 on page 2).

d. As per claims 9 and 18, Jetspeed teaches: generating, within at least one content provider node, user-requested content information in a markup language using a specific portlet (paragraph 4 on page 1); and sending, from the at least one content provider node, the generated user-requested content information to a portal node for combining with information in the markup language received from other content provider nodes using different specific portlets to produce combined user-requested content information and sending the combined user-requested content information to a user node using a generic portlet (paragraph 1 on page 2 and paragraphs 2-3 on page 4).

e. As per claim 10, Jetspeed teaches: the generating step comprises generating fragments of information in the markup language, and the sending step comprises sending the fragments of information to a portal node for combining and sending to a user node (paragraph 1 on page 2 and paragraphs 2-3 on page 4).

f. As per claim 13, Jetspeed teaches: the user-requested content information sent to the user node is configured for displaying on a browser at the user node (Fig. 1 on pages 1-2 and paragraph 1 on page 2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Khan as applied to claim 1 above, in view of Black et al. (U.S. 6,754,833 B1) hereinafter referred to as Black.

a. As per claim 7, Khan does not explicitly teach: the user-requested content information received from the at least one of the more than one content provider nodes is associated with a fee. However, Black discloses: "Typically, at least some of the content or applications will be developed internally, while others will be obtained by paying fees to the source(s) of the content or applications," (lines 25-28 of column 2).

It would have been obvious to one of ordinary skill in the art at the time of the appellant's invention to have the information received from the at least one content provider node associated with a fee. "The web-site or portal operator (the entity that manages and controls the set of links made available at the site) is able to generate revenue by selling advertising space on the site home page. These features make portal operation a potentially lucrative form of business, as well as a method of establishing and/or maintaining brand strength," (lines 16-21 of column 2 in Black). It is for this reason that one of ordinary skill in the art at

the time of the appellant's invention would have been motivated to have the information received from the at least one content provider node associated with a fee in the system as taught by Khan.

7. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Khan as applied to claim 7 above, in view of Black and Official Notice.

a. As per claim 8, Khan fails to teach the step of accepting a fee before the receiving step. However, Black discloses: "Typically, at least some of the content or applications will be developed internally, while others will be obtained by paying fees to the source(s) of the content or applications," (lines 25-28 of column 2).

It would have been obvious to one of ordinary skill in the art at the time of the appellant's invention to have the step of accepting a fee before the receiving step. . "The web-site or portal operator (the entity that manages and controls the set of links made available at the site) is able to generate revenue by selling advertising space on the site home page. These features make portal operation a potentially lucrative form of business, as well as a method of establishing and/or maintaining brand strength," (lines 16-21 of column 2 in Black). It is for this reason that one of ordinary skill in the art at the time of the appellant's invention would have been motivated to have the step of accepting a fee before the receiving step in the system as taught by Khan.

Khan teaches accepting a fee, but fails to disclose when the fee is accepted. Official Notice is taken of accepting the fee before the receiving step. In general, most transactions occur wherein a fee is charged and then paid before the goods/services are delivered, thereby allowing the seller to guarantee they are getting paid for their goods/services. It is for this reason that one of ordinary skill in the art at the time of the appellant's invention would have been motivated to accept a fee before the receiving step in the system as taught by Khan.

8. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Khan as applied to claim 9 above, in view of Black.

a. As per claim 15, Khan fails to teach the step of associating the generated user-requested content information with a fee. However, Black discloses: "Typically, at least some of the content or applications will be developed internally, while others will be obtained by paying fees to the source(s) of the content or applications," (lines 25-28 of column 2).

It would have been obvious to one of ordinary skill in the art at the time of the appellant's invention to associate the generated user-requested content information with a fee. "The web-site or portal operator (the entity that manages and controls the set of links made available at the site) is able to generate revenue by selling advertising space on the site home page. These features make portal operation a potentially lucrative form of business, as well as a

method of establishing and/or maintaining brand strength,” (lines 16-21 of column 2 in Black). It is for this reason that one of ordinary skill in the art at the time of the appellant’s invention would have been motivated to associate the generated user-requested content information with a fee in the system as taught by Khan.

9. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Khan as applied to claim 15 above, in view of Black and Official Notice.

a. As per claim 16, Khan fails to teach the step of charging a fee before the sending step. However, Black discloses: “Typically, at least some of the content or applications will be developed internally, while others will be obtained by paying fees to the source(s) of the content or applications,” (lines 25-28 of column 2).

It would have been obvious to one of ordinary skill in the art at the time of the appellant’s invention to have the step of charging a fee before the sending step. “The web-site or portal operator (the entity that manages and controls the set of links made available at the site) is able to generate revenue by selling advertising space on the site home page. These features make portal operation a potentially lucrative form of business, as well as a method of establishing and/or maintaining brand strength,” (lines 16-21 of column 2 in Black). It is for this reason that one of ordinary skill in the art at the time of the appellant’s invention would have been motivated to have the step of charging a fee before the sending step in the system as taught by Khan.

Khan teaches charging a fee, but fails to disclose when the fee is charged. Official Notice is taken of charging the fee before the sending step. In general, most transactions occur wherein the fee is charged and then paid before the goods/services are delivered, thereby allowing the seller to guarantee they are getting paid for their goods/services. It is for this reason that one of ordinary skill in the art at the time of the appellant's invention would have been motivated to charge a fee before the sending step in the system as taught by Khan.

(10) Response to Argument

Appellant argues – regarding claims 1 and 17, Khan doesn't provide a generic portlet, rather, Khan provides a portal page. The appellant additionally argues that Khan doesn't combine content generated by specific portlets at multiple sites.

In response to the above arguments, the examiner points to the cited portions of Khan (lines 36-49 of column 11) which disclose: "Another feature that may be included is an pushed update feature. With the pushed update feature, execution of the selected features comprises selecting a periodic interval for receiving updates and then arranging with the linked web site for the transmitting of updates at the periodic interval. Users are able to receive updates from their favorite web sites via their bookmarks. Users may be able to do so without divulging their email address to each of their favorite web sites. The user's online bookmarks manager make arrangements with web sites to "push" regular site updates and announcements to users and will relay these updates to all users interested in the web site. Users simply program a bookmark with the frequency at which they want the updates." It is clear from the recitation that the Khan reference teaches the generic portlets in that it has websites push updates and announcements to users interested in the website.

Additionally, the examiner points to portions of Khan (lines 33-52 of column 1) which disclose: "Custom internet portals exist (e.g. myYahoo, myLycos etc.). The level of customization is however, fairly minimal. These portals only

allow the user to customize the content delivered to them not the source of the content delivered. For example, if a user is interested in Indian politics, Soccer, Cricket, and Semiconductor High Tech companies, MyYahoo allows him to configure Yahoo's news source to filter through news on these topics. However, the user must take all this content strictly from Yahoo's content providers. This arrangement prohibits users from choosing not just the type of content but the source of the content as well. While, for example, a user may want to be able to receive world politics news from his two favorite Indian news dailies every morning, get his Hi-Tech news coverage from Red Herring and CNet, and get sports news from Cricket.org and dailysoccer.com, access to all these sites through a prior art internet portal would be predicated on the internet portal offering access to all of the particular site via that particular portal." It should also be easily recognizable from this section that different, specific portlets at each of the more than one content provider nodes supplies information. This is shown by a user getting their "world politics news from his two favorite Indian new dailies every morning, get his Hi-Tech news coverage from Red Herring and Cnet, and get sports news from Cricket.org and dailysoccer.com," (lines 45-48 of column 1).

In response to the Applicants' argument that Khan teaches a portal page as opposed to a generic portlet, the Applicants' argument has been considered but is not deemed persuasive. This argument appears to be based on a specific definition of the term portal. On page 9 of the Supplemental Appeal Brief filed on April 20, 2008, the Applicants state that a portlet is a content-specific application that runs on a portal. Khan shows in Figure 2 a web server machine/portal (Fig.

2 elem. 84) that returns a web page including bookmarks (Fig. 10 and col. 14 line 55 to col. 15. In the context of web pages, web server software (i.e., an application program) running on Khan's server machine/portal must return this web page to the user's browser. A web server is content-specific because it serves Web pages according to the HTTP protocol. Now consider the Applicant's definition of a portlet. A portlet is a content-specific application that runs on a portal. The Examiner fails to see why, given the Applicants' definition, Khan's web server running on a server fails to meet the definition of a portlet argued by the Applicant.

Regarding the additional argument that Khan doesn't combine content generated by specific portlets at multiple sites, it is clear from the cited sections above that Khat does combine the content. Figure 10 of Khan shows the combining of content which is further described on line 63 of column 14 through line 11 of column 15 in Khan: " Specifically, using programmable bookmarks, users may create their customized Internet portal: a web page 1000 that displays content and services from websites they select via a compelling Graphical User Interface. Content is pulled off the selected website servers and displayed seamlessly over the user's browser. With reference to FIG. 10, in this illustrative embodiment of a customized portal, a plurality of programmable bookmarks 1002a, 1002b, 1002c are displayed in the customized portal web page. These bookmarks may be displayed in a organized manner such as a organizational tree 1004 Notifications to a user from the selected features of their bookmarks may be displayed in the customized portal. For example, in FIG. 10, a notification

frame 1006 resulting from selection of the pushed update feature for a bookmark may be displayed adjacent the particular bookmark 1002a.” Khan additionally describes the user receiving world politics news from his two favorite Indian news dailies, Hi-Tech news from Red Herring and CNet, and sports from Cricket.org and dailysoccer.com which clearly exemplifies the combining of content at the user interface.

Appellant argues - regarding claims 1 and 17, Dumbill does not anticipate the invention as claimed. The appellant argues only that Dumbill provides a different definition of the term “portlet” than the instant application. The appellant argues that according to Dumbill, Jetspeed gathers “information chunks imported into Jetspeed” (i.e., the Dumbill “portlets”) into a data base and presents them to the user.

In response to the above arguments, the examiner points to paragraph 2 on page 2 of Dumbill which discloses: “Jetspeed in fact defines a Portlet API, so that components can be written to a slot into the framework.” As one can clearly see, the “information chunks” imported into Jetspeed are applications built upon the portlet program interface and are in fact carry the same definition as the appellant’s own specification. Additionally, Dumbill describes applications that can be utilized as portlets in paragraph 8 on page 2 which discloses: “Turbine provides an application framework that Jetspeed takes advantage of. Turbine offers features such as database connection pooling, user and session management facilities and security management,” and paragraph 3 on page 4

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which discloses: "Jetspeed handles external XML such as OCS by coercing it into a particular XML schema with XSLT and then utilizing Castor marshalling to bring the data to memory. So, in the source, you will find an XSLT stylesheet to transform OCS into a list of portlets." Finally, Dumbill states: "The first of these two portlets represents an application," (paragraph 5 on page 3) describing the program code on page 3, lines 22-37). As such, the rejection remains proper and is maintained by the examiner.

The appellant's remaining arguments are directed towards the arguments described above in relation to claims 1 and 17 in view of both Khan and Dumbill. Each argument is a blanket statement stating that Khan/Dumbill do not teach the limitations of the claim because they do not teach the limitations of independent claims 1 and 17.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

mdm

/mdm/

15 August 2008

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